



U.S. Department of Justice

United States Attorney
Southern District of New York

MEMO ENDORSED

United States District Courthouse
300 Quarropas Street
White Plains, New York 10601

February 2, 2023

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BY ECF AND EMAIL

Honorable Valerie E. Caproni
United States District Court Judge
Southern District of New York
Thurgood Marshall United States Courthouse
40 Foley Square,
New York, New York 10007

Re: *United States v. Edwin Cortorreal*, 17 Cr. 438 (VEC)

Dear Judge Caproni:

The Government writes¹ to respectfully request that the Court stay the additional post-hearing briefing originally requested by the Government following the conclusion of Dr. Dan Krane's testimony on January 19, 2023.² As set forth in more detail below, the Government has decided to proceed with testing the remainder of swab 1B of the duct tape roll (the "Sample"), using a different amplification kit and a different probabilistic genotyping software. Because the results of this additional analysis may impact whether the Government will seek to admit the 2020 DNA analysis on the Sample, the Government is seeking a stay of the briefing.

Following the conclusion of the reopened *Daubert* hearing on January 19, 2023, on January 23, 2023, the Government requested the Office of the Chief Medical Examiner ("OCME") to locate and quantify the DNA remaining from the Sample after it was initially tested. On January 30, 2023, OCME confirmed that a sufficient amount of DNA remained, such that OCME could use the Promega PowerPlex Fusion Amplification kit, which is different from the AmpFLSTR Identifiler kit used previously, and STRMix, which is a different probabilistic genotyping software than the FST system that was previously used. On January 31, 2023, the Government requested OCME to test the remaining Sample on an expedited basis. OCME anticipates that it will have results within 15 business days.

¹ The Government submitted a substantially similar letter on February 1, 2023, docketed at 766. Subsequent to filing the letter, the Government noticed an error in the first sentence of the second paragraph. This letter corrects that error, and the Government requests that the letter docketed at 766 be stricken.

² Government counsel reached out to defense counsel for their position on the Government's request in the evening on January 31, 2023. On February 1, 2023, defense counsel advised that they oppose the Government's request and will be submitting their own letter.

HON. VALERIE CAPRONI
UNITED STATES DISTRICT JUDGE